

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GREGORY TUTTLE, <i>et.al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 14-164
)	
v.)	Judge Cathy Bissoon
)	Magistrate Judge Lisa Pupo Lenihan
TREVOR WINGARD, <i>et.al.</i> ,)	
)	
)	
Defendants.)	

MEMORANDUM ORDER

This case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72.

On June 10, 2015, the Magistrate Judge issued a Report (Doc. 43) recommending that Defendant's Motion to Dismiss (Doc. 31) be denied. Service of the Report and Recommendation was made on the parties, and no objections have been filed.

After a review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

The Motion to Dismiss by Defendants Allegheny Correctional Health Services, Inc. and Dana Phillips¹ (**Doc. 31**) is **DENIED**. The Motion is DENIED as it relates to the Monell claim against Allegheny Correctional Health Services, Inc., and DENIED AS MOOT as to all other

¹ The motion at Doc. 31 was also filed on behalf of Virginia I. Cook, Esq., as Executrix of the Estate of Bruce Dixon, insofar as the allegations of the Amended Complaint charge Dr. Dixon's estate with responsibility for damages in his capacity as a member of the Board of Directors of Allegheny Correction Health Services, Inc. The parties, however, stipulated to the dismissal of all claims against Virginia Cook at Document 40. The Court approved the stipulation by Court Order at Document 41.

issues previously raised in Defendants' first Motion to Dismiss (Doc. 8), and subsequently ruled upon by the Court. (Docs. 24, 28).

Therefore, the claims remaining as to Allegheny Correctional Health Services, Inc., are as follows:

1) 42 U.S.C. § 1983 claim for violation of the Eighth Amendment to the United States Constitution for deliberate indifference to serious medical needs;

2) Monell liability claim; and

3) Negligence claim, the derivative loss of consortium claim, and punitive damages claim.

The claims remaining as to Dana Phillips in her individual capacity are as follows:

1) 42 U.S.C. § 1983 claim for violation of the Eighth Amendment for deliberate indifference to serious medical needs;

2) Monell supervisory liability claim; and

3) Negligence claim, the derivative loss of consortium claim, and punitive damages claim.

The Magistrate Judge's Report and Recommendation dated June 10, 2015, hereby is adopted as the Opinion of the District Court.

IT IS SO ORDERED.

July 7, 2015

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All counsel of record